

1 JUDGE RILEY: Pursuant to the direction
2 of the Illinois Commerce Commission, I call
3 Docket 10-0379. This is an application by
4 IQ Telecom, Inc., for designation as an eligible
5 telecommunications carrier for purposes of receiving
6 Federal Universal Service Support, pursuant to
7 Section 214(e)(2) of the Telecommunications Act of
8 1996.

9 Mr. Crocker, you are appearing on
10 behalf of IQ Telecom?

11 MR. CROCKER: That's correct, your Honor.

12 JUDGE RILEY: Would you state your name and your
13 business address for the record.

14 MR. CROCKER: Patrick Crocker, C-r-o-c-k-e-r,
15 107 West Michigan Avenue, 4th Floor, Kalamazoo,
16 Michigan 49007.

17 JUDGE RILEY: Thank you.

18 And for Commission Staff.

19 MS. SARA: On behalf of the Staff of the
20 Illinois Commerce Commission, Nicole T. Sara and
21 Matthew L. Harvey, 160 North LaSalle Street,
22 Suite C-800, Chicago, Illinois 60601.

1 Also present in the hearing room is
2 Dr. Qin Liu of the Telecommunications Division.

3 JUDGE RILEY: Thank you.

4 And I note that this matter has been
5 continued a couple of times since the original
6 pre-hearing conference date. And this morning at
7 approximately 10 minutes to 10:00, which was 10
8 minutes before this session began, I received a
9 supplemental filing from the applicant.

10 Mr. Crocker, can you briefly tell me
11 what's in the supplemental filing? I haven't had a
12 chance to go through it.

13 MR. CROCKER: Yes. Actually, we filed it for
14 purposes of simply supplementing the docket. It
15 addresses the facility versus resale issue. It's a
16 capital lease agreement with Reunion Communications,
17 Inc., and IQ Telecom.

18 But I've had conversations with Staff
19 Attorney Sara. Earlier this week, I've had a
20 conversation with her and we have other issues that
21 we have to address prior to addressing the filing
22 that we've made today.

1 JUDGE RILEY: And Ms. Sara, can you bring us up
2 to date on Staff's position?

3 MS. SARA: Mr. Crocker, is this in reference to
4 the LOA that I discussed with you?

5 MR. CROCKER: Yes. I think you had other issues
6 that you wanted to discuss or get information on.

7 MS. SARA: As far as the filing that we've just
8 received today, obviously, Staff is going to need
9 some time to issue data requests to figure out
10 exactly what's going on with this capital lease and
11 whether or not it satisfies the facilities'
12 requirement under Section 214(e)(1) of the Act.

13 We have this capital lease issue in a
14 number of ETC designation cases and have some
15 outstanding data requests in other cases, as well.
16 But we're going to need additional time to
17 investigate and to have these requests answered and
18 analyzed.

19 And further, your Honor, although this
20 is a separate matter, Staff feels that it's
21 extremely important that we bring to your attention
22 as well as the Commission's attention, that we

1 believe that the company is using a letter of agency
2 for its wireline services that is in violation of
3 both the FCC's and Illinois LOA's rules.

4 This is, obviously, not related to the
5 wireline service, but it is related to the operation
6 of the company in general. And Staff may initiate
7 an investigation and bring an action on its own
8 motion against the company for slamming, under
9 Section 13-903(g) of the Act.

10 JUDGE RILEY: What did you say it was in
11 violation of?

12 MS. SARA: Section 5/13-902(d)(2) and
13 13-902(d)(3) of the Act.

14 JUDGE RILEY: Mr. Crocker, any response?

15 MR. CROCKER: You know, I'm not aware of any
16 violations by IQ Telecom. I'd be interested in
17 finding out what their concerns are. As
18 Attorney Sara said, we've talked about it briefly in
19 our last call, nothing in particular, though.

20 JUDGE RILEY: Okay. Well, this is going to have
21 to be hashed out. It may takes some time.

22 What is Staff's next step?

1 MS. SARA: As far as IQ Telecom's wireless
2 application, their ETC designation, we have to issue
3 additional data requests to determine whether they
4 satisfy the facilities' requirement, taking into
5 account the fact that we just got the supplemental
6 filing this morning.

7 JUDGE RILEY: Right.

8 MS. SARA: As for the letter of agency and the
9 company's wireline services, we believe that it's
10 not easily separable from -- or it's not separate or
11 easily separable and it has the sole purpose of
12 authorizing preferred carrier charge. And it's also
13 combined with inducement in violation of the rules.
14 So we're going to do a thorough investigation of
15 this. This is sort of a cursory investigation. But
16 we wanted to make sure that both you and the
17 Commission were aware of this company's actions in
18 other areas of its business.

19 JUDGE RILEY: I understand. But does it bear
20 directly on the application in this docket?

21 MS. SARA: We feel that it bears directly in
22 that it's the same company, it's owned by the same

1 company. And if they're conducting their business
2 in their wireline services in this manner, they may
3 also conduct their business this way in their
4 wireless services.

5 JUDGE RILEY: So the investigation will be to
6 find out whether or not they are in fact conducting
7 their business -- having the same potential
8 violation in this docket.

9 MS. SARA: That's correct.

10 JUDGE RILEY: All right. I understand that.
11 That's the need for the investigation then.

12 DR. LIU: The investigation is pertaining to
13 wireline ETC operation.

14 JUDGE RILEY: Right.

15 And does this docket pertain to the
16 wireline business?

17 MS. SARA: We believe they're related because
18 it's the same company operating it. And we're
19 worried that we will have the same concerns for
20 wireless.

21 But for the time being, we still need
22 to hash out this whole facilities issue going

1 forward --

2 JUDGE RILEY: Okay.

3 MS. SARA: -- irregardless.

4 JUDGE RILEY: I guess what my concern is, if
5 there's an impropriety in their -- the conduct of
6 their wireline business and there is no
7 corresponding impropriety in their wireless in this
8 docket, is Staff going to make an issue of it
9 anyway?

10 MS. SARA: Obviously, we wouldn't if there were
11 no issue in the wireline. But we just wanted to
12 make you aware. Whether that impacts your decision
13 today is entirely up to you, Judge. But we wanted
14 to make both you and the Commission aware that we
15 were planning to investigate this issue with their
16 wireline ETC services.

17 JUDGE RILEY: All right.

18 Mr. Crocker, a response?

19 MR. CROCKER: Well, you know, obviously,
20 IQ Telecom will fully cooperate with the Staff here.
21 There is no corresponding obligation for a wireless
22 provider that has been cited by Ms. Sara. So I

1 don't know -- you know, the verification procedures
2 that are set forth for wireline products don't apply
3 to the wireless products.

4 But, nonetheless, we'll cooperate.

5 JUDGE RILEY: I think it would be --

6 MR. CROCKER: We'd like to satisfy the Staff
7 that our client is acting properly across the board.

8 JUDGE RILEY: That's understood and certainly
9 accepted.

10 I think the next step would be then to
11 give Staff time to conduct this investigation and
12 find out exactly what the issues are. They can
13 define them a little bit more clearly once they get
14 some information.

15 Will Staff be issuing data requests?

16 MS. SARA: Yes.

17 Dr. Qin, did you want to specify a
18 period of time?

19 DR. LIU: For the wireline or wireless?

20 MS. SARA: Wireless, yes.

21 DR. LIU: Hopefully, the next -- maybe we should
22 reconvene in December to --

1 JUDGE RILEY: I'm not sure I'm following you.

2 This is with regard to the issuance of
3 data requests?

4 DR. LIU: For the wireless application we need
5 data request for that.

6 JUDGE RILEY: When you say "wireless
7 application," you're talking about docket.

8 DR. LIU: Yes.

9 JUDGE RILEY: I guess my question is, when is
10 the -- how soon can we be issuing those data
11 requests?

12 DR. LIU: Probably would be late November.

13 JUDGE RILEY: It'll take a month?

14 DR. LIU: We need -- we're discussing other case
15 as well. We need to understand capital lease
16 situation. It's new for us. We never encountered
17 the concept before. We need to understand what
18 capital lease means.

19 JUDGE RILEY: All right. So it could take up to
20 a month to issue --

21 DR. LIU: I'll be out of the office for two
22 weeks, the first part of November.

1 JUDGE RILEY: It is what it is then. And will
2 there be a deadline for a response -- or will there
3 be a targeted date for a response?

4 I'm trying to get some sense of a
5 schedule here as to how long --

6 MS. SARA: Right. Well, the company has 28 days
7 to respond to the data requests. So if they're out
8 by the end of the month -- I don't know if the
9 company could agree to return them sooner than 28
10 days, but that would put us --

11 JUDGE RILEY: Puts us through the end of
12 December.

13 MS. SARA: Correct.

14 JUDGE RILEY: Then we'd need another status
15 date.

16 MS. SARA: Is there a date that works best for
17 you at the end of December?

18 JUDGE RILEY: Well, let me ask Mr. Crocker.

19 What's your response to all this.

20 MR. CROCKER: You know, it sounds like the
21 capital lease issue is an issue that needs to be
22 addressed by the Staff, not only in this docket but

1 other dockets --

2 MS. SARA: That's correct.

3 MR. CROCKER: -- it may be that they have asked
4 questions in the other dockets that, you know --
5 that they will ask in this docket or -- I'm not sure
6 how many questions they're going to have.

7 This ETC application is a high
8 priority for this company. And so I would imagine
9 that we would respond, you know, earlier than the
10 28 days permitted.

11 MS. SARA: Okay.

12 MR. CROCKER: It's a high priority on this end.
13 Although, we're also aware of the other dockets and
14 how they're progressing. We also understand that
15 they're dealing with these interrogatories and data
16 requests, so. . .

17 I imagine having a hearing at the end
18 of December would be a good window to schedule a
19 hearing.

20 JUDGE RILEY: If anybody is going to be around,
21 I will, the week of the 27th I'll be here.

22 MS. SARA: I'll be here as well.

1 MR. CROCKER: I'll be here as well.

2 DR. LIU: I don't know yet. I have no idea.

3 JUDGE RILEY: We'll be meeting for a status to
4 discuss the response that have come in.

5 Will Ms. Liu's presence be absolutely
6 necessary?

7 MS. SARA: No, your Honor. We can do it between
8 us.

9 JUDGE RILEY: So if you and I and Mr. Crocker
10 are available then we can conduct a status.

11 MS. SARA: What date of the week of the 27th
12 work for you, your Honor.

13 JUDGE RILEY: I've got all 5 days wide open.

14 The 28th is the one I was looking at,
15 Tuesday.

16 MS. SARA: That's fine for Staff.

17 MR. CROCKER: It's good on this end, your Honor.

18 JUDGE RILEY: All right.

19 Then we'll let Staff go through their
20 paces and issue what they have to issue in the form
21 of data requests and we'll see what the responses
22 are at that time.

1 MR. CROCKER: Your Honor, can I ask Staff a
2 question?

3 JUDGE RILEY: Certainly.

4 MR. CROCKER: I'm curious about the issue of the
5 LOA and how that has presented itself. Is it
6 something that a competitive carrier has raised this
7 issue or are there consumers that have raised this
8 issue?

9 MS. SARA: There are consumers that have raised
10 this issue and a number of complaints have been made
11 about IQ Telecom at the Commission.

12 MR. CROCKER: Is that on the same issue?

13 MS. SARA: On the LOA issue, yes.

14 MR. CROCKER: And is that a recent event?

15 MS. SARA: I'm trying to see if I have that
16 information in front of me. I don't know that I do.

17 It looks like we've had 11 complaints
18 so far this year.

19 MR. CROCKER: Okay.

20 MS. SARA: But I was sort of waiting for a
21 little bit more information on that. And certainly,
22 if the Staff did choose to initiate any sort of

1 investigation, you would be made aware.

2 MR. CROCKER: Okay. You know, do you have a
3 sense of whether the 11 complaints have come
4 recently and relate to these particular LOAs that
5 you're interested in?

6 MS. SARA: I know -- I'm almost positive they
7 relate to the LOA, but I do not know whether they've
8 been recent. I only know they've been within this
9 year.

10 MR. CROCKER: Okay.

11 JUDGE RILEY: Is there anything else we needed
12 to discuss?

13 MS. SARA: What time on the 28th?

14 JUDGE RILEY: 10:00 a.m.

15 Is that sufficient, Mr. Crocker?

16 MR. CROCKER: Absolutely.

17 JUDGE RILEY: That's 11:00 a.m. your time, isn't
18 it?

19 MR. CROCKER: Yes.

20 JUDGE RILEY: Right.

21 All right then. Then we'll leave it
22 at that. As I said, we'll let Staff go through its

1 paces and issue the data requests it needs and get
2 the information and we'll discuss it.

3 And I'll continue this matter over
4 then to December 28th at 10:00 a.m. for a status.

5 MS. SARA: Thank you.

6 MR. CROCKER: Thank you, your Honor.

7 (Whereupon, the above-entitled
8 matter was continued to
9 December 28, 2010.)

10

11

12

13

14

15

16

17

18

19

20

21

22